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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/778,687	02/07/2001	Mark James Kline	8415	5337

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EXAMINER

WEBB, JAMISUE A

ART UNIT PAPER NUMBER

3761

DATE MAILED: 04/08/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/778,687

Applicant(s)

KLINE ET AL.

Examiner

Jamisue A. Webb

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-18 and 26-35 is/are rejected.
- 7) ☒ Claim(s) 4 and 19-25 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 9.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

2. Claims 1, 5, 6, 11, 13, 27 and 32 are rejected under 35 U.S.C. 102(e) as being anticipated by Ive (6,125,487).
3. With respect to Claims 1, 5, 6 and 27: Ive discloses the use of a infant support cushion that aids in the changing of an infant's diaper (see abstract). Ive discloses the pad to be made of a foam material, which is fully capable of being compressed.
4. With respect to Claims 11 and 13: Ive discloses the material being made of foam, and it is the examiner's position that the foam either has to be open celled or closed cell.
5. With respect to Claim 32: Ive discloses the infant lying down on the mat (see Figure 1).
6. Claims 1, 2, 5, 6, 9, 12, 15-17, 27-30 and 32 are rejected under 35 U.S.C. 102(e) as being anticipated by Vickers (6,298,509).
7. With respect to Claims 1 and 27: Vickers discloses the use of a changing pad with a central portion having a pad of fabric, and the outer portions having pockets for holding amenities. (see abstract).

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8. With respect to Claim 2: the Figure shows the article in the side pockets, (see Figure 3), and when in the process of applying the article to the infant, the article would be moved from the position of the pockets, to a position in the center pad region.
9. With respect to Claims 5 and 6: The examiner considers fabric to be capable of being compressed.
10. With respect to Claims 9, and 28-30: The central portion has the fabric (30) in the article, the outsides do not, therefore the examiner considers the middle, central region to be more compressible than the outside pocket regions.
11. With respect to Claims 15-17: Vickers discloses the pockets having closures such as hook and loop fasteners (column 3, lines 44-47) and the pad having articles such as chains and teething toys that are attached to the pad, and which distract the infant and aid in the changing of a diaper. (see Column 2, lines 1-3)
12. With respect to Claim 32: See column 4, line 22.
13. Claims 1, 5, 7, 8, 12, 14, 26, 27, and 32 are rejected under 35 U.S.C. 102(e) as being anticipated by Betker (6,269,503).
14. With respect to Claims 1 and 27: Betker discloses the use of a changing station that incorporated a voice or voice instructions fir changing a diaper (see abstract).
15. With respect to Claims 5 and 12: Betker discloses station being made of two parts, one that is hooked to a wall, and the other part hinged to the first part and pulls down to change the baby on. Betker also discloses a strap used to hold the baby down while the diaper is being changed.

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16. With respect to Claims 7, 8 14 and 26: The instructions are either voice or mechanically activated (column 1, lines 35-44).

17. Claims 1-3, 5, 6, 9, 12, 18, 27-30, 32-35 are rejected under 35 U.S.C. 102(e) as being anticipated by Erli (6,154,906).

18. With respect to Claim 1, 9 and 27-30: Erli discloses the use of a changing mat (1), that can aids in changing a baby (see abstract), with a middle pad member (3) and two side members (5).

19. With respect to Claim 2: Erli discloses the side members are compartments that are full of things like extra diapers and lotions and powders, when in use the diapers are moved from a outside position to an inside position where the article is placed on the infant (See Figure 1).

20. With respect to Claim 3: When the side portions are moved to the outside then energy is released in the form of motion (potential energy to kinetic energy).

21. With respect to Claim 5 and 6: Erli discloses movable side sections and discloses the middle portion to be padding, and therefore the examiner considers this to be compressible.

22. With respect to Claim 12: the side sections move at pivot points 8b.

23. With respect to Claims 32-35: Erli discloses the infant lying down (column 2, line 24), and the outside side sections are covered and form a lip that holds one or more articles in a stacked position (see Figure 1).

Claim Rejections - 35 USC § 103

24. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

25. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

26. Claims 10 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ive (6,125,487).

27. Ive discloses the claimed invention except for the compressible material being 10% compressible with a pressure of 0.1 psi. It would have been obvious matter of design choice to have the material being 10% compressible, since applicant has not disclosed that the 10% compressible solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the foam of Ive.

Allowable Subject Matter

28. Claims 4 and 19-25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Conclusion

29. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. A person's own body can be used as a changing aid with an effect generating element. Matthews (5,546,620) discloses the use of a changing pad with play toys, Schneider et al. (3,656,193) discloses a dressing tray for babies that has cavities to hold amenities, and Weber (6,327,726) discloses a baby changing pad with pockets.

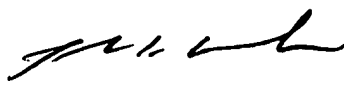
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Webb whose telephone number is (703) 308-8579. The examiner can normally be reached on M-F (7:30 - 4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John G. Weiss can be reached on (703) 308-2702. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

jaw

April 3, 2002


John G. Weiss
Supervisory Patent Examiner
Group 3700